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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1177 of 1999

in

SPECIAL CIVIL APPLICATION No 10322 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

CHANDUBHAI SOMABHAI HARIJAN

Appearance:

MR HS MUNSHAW for Appellant
Mr R V Desai for respondent

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE D.P.BUCH

Date of decision: 06/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Admitted. Mr R V Desai, learned Advocate waives service of notice of admission on behalf of the respondent.

Upon joint request, the appeal is taken up for final hearing today.

In this LPA, the challenge is against the order passed by the learned Single Judge in Special Civil Application No.10322/98 dated 4.5.1999, whereby, the appellant-original petitioner lost the battle. The challenge in the Special Civil Application was against the order and award passed by the Labour Court, at Baroda, on 12.4.1998 in Reference (LCB) No.329/90, whereby, the Reference of an industrial dispute dated 8.5.1990 under Section 10(1)(c) of the Industrial Disputes Act, 1947 came to be granted. Thus, the termination order without observing any prescribed procedure recorded by the G.S.R.T.C. came to be quashed and a direction was issued to reinstate the workman with full backwages with interest of 18% w.e.f. 1.4.1998.

2. The short question which has come to the surface in this LPA is as to whether the direction to pay full backwages upon reinstatement to the workman who was working as part-time Sweeper (for 5 hours), in the facts and circumstances of the case, is justified or not. After having taken into consideration the submissions raised by the learned Advocates for the parties and the relevant proportion which was applicable to the facts of the case and the nature and type of the work, we are of the opinion that the direction with regard to full backwages requires little modification. In the peculiar facts and special circumstances, the 33% of the backwages shall be paid on or before 30.11.2000 failing which the interest as directed by the Labour Court shall be charged on the said amount of 33% backwages. No other contention is raised. Therefore, this appeal is partly allowed and the impugned order shall stand, to that extent, modified.

Rule is made absolute to that extent.

[J N Bhatt, J.]

6.11.2000 [D P Buch, J.]
msp.